pensation received for the injury where it comes from a collateral source, wholly independent of the defendant." I. SUTH. ON DAM. (3rd Ed.) 406, and authorities cited. This rule has been applied where an insurance company paid the loss. *The Propellor Monticello* v. *Mollison,* 17 How. 152, 15 L. Ed. 68. And it has been held that, where a wife died as a result of the defendant's negligence and the husband married again, he could recover for the loss of the first wife's pecuniary services even though the second wife performed them. *Davis* v. *Guarnieri,* 45 Ohio St. 470, 15 N. E. 350, 4 Am. St. Rep. 548. Further, it has been said in a case similar to the principal case that the husband need prove no pecuniary loss in order to recover, *Kelly* v. *Township of Mayberry,* 154 Pa. St. 440, 26 Atl. 595, 32 W. N. C. 224. So the true rule in such cases would seem to be that the damages to the husband from the loss of the wife's services "follow uniformly and by legal necessity from the relation of husband and wife, which entitles him to her services and society and charges him with her support." *Hopkins* v. *The Atlantic and St. Lawrence R. R.,* 36 N. H. 9, 72 Am. Dec. 287. And the same reasoning would apply here as in those cases in which an injured person has been allowed to recover the expenses of nursing although such nursing was done gratuitously by members of his own family. See 6 MICH. LAW REV. 82, and cases cited.

DAMAGES—FAILURE TO DELIVER TELEGRAM—MENTAL SUFFERING—NEAR RELATIVE.—Plaintiff sued to recover damages for mental suffering caused by defendant's negligent delay in delivering to plaintiff the following telegram: " * * * Come to Cincinnati as soon as you get this, as mother is dead. Arthur Terry." Plaintiff was then engaged to be married to Mrs. Terry, the deceased. As a consequence of the delay, plaintiff was unable to attend the funeral of his fiancée. *Held,* since plaintiff was not a near relative of the deceased he could recover no damages for mental suffering. *Randall* v. *Western Union Telegraph Co.* (1908), — Ct. App. Ky. —, 107 S. W. Rep. 235.

Although this decision is probably sustained by the weight of authority, yet it is interesting as an illustration of the arbitrary manner in which the courts limit the recovery of damages for mental suffering. Thus, such damages have been allowed in cases similar to the principal case where deceased was plaintiff's (1) parent, *Mentzer* v. *W. U. Tel. Co.,* 93 Iowa 752, 62 N. W. 1, 57 Am. St. Rep. 294, 28 L. R. A. 72; *W. U. Tel. Co.* v. *Beringer,* 84 Tex. 38, 19 S. W. 336; (2) brother, *Wadsworth* v. *W. U. Tel. Co.,* 86 Tenn. (2 Pickle) 695, 8 S. W. 574, 6 Am. St. Rep. 864; (3) sister, *W. U. Tel. Co.* v. *Linn,* 23 S. W. (Tex. Civ. App.) 895; (4) wife, *Young* v. *W. U. Tel. Co.,* 107 N. C. 370, 11 S. E. 1044, 22 Am. St. Rep. 883, 9 L. R. A. 669. A recovery has been denied where deceased was plaintiff's (1) brother-in-law, *W. U. Tel. Co.* v. *McMillan,* 30 S. W. (Tex. Civ. App.) 298; (2) stepfather, *W. U. Tel. Co.* v. *Garrett,* 34 S. W. (Tex. Civ. App.) 649; (3) son-in-law, *W. U. Tel. Co.* v. *Gibson,* 39 S. W. (Tex. Civ. App.) 198; (4) niece, *W. U. Tel. Co.* v. *Wilson,* 97 Tex., 22, 75 S. W. 482. In the principal decision the court confesses that the mental suffering in such a case might be as great as in the case of near relatives, but nevertheless enforces this arbitrary limitation in order to prevent undue extension of the doctrine. The modern tendency seems to be to

enlarge the scope of such recovery, for recent cases have allowed a recovery where deceased was plaintiff's (1) daughter-in-law, *Bennett* v. *W. U. Tel. Co.*, 128 N. C. 103, 38 S. E. 294; (2) second cousin, *Hunter* v. *W. U. Tel. Co.*, 135 N. C. 458, 47 S. E. 745; (3) grandchild, *W. U. Tel. Co.* v. *Crocker*, 135 Ala. 492, 33 So. 45; *W. U. Tel. Co.* v. *Porterfield*, 84 S. W. (Tex. Civ. App.) 850.

DEEDS—JOINDER OF INFANT HUSBAND.—The original grantor, a married woman, conveyed her separate estate and her husband did not join in the deed. Such deed was given to provide necessaries for herself and child and at the time it was executed her husband was a minor. An action was brought by the heirs in trespass to try title. *Held*, that the deed was void under a statute providing merely that a deed of a married woman signed by herself and husband and properly acknowleged shall pass the title to the wife's separate property. *Zimpleman et al.* v. *Portwood et al.* (1908), — Tex. Civ. App. —, 107 S. W. Rep. 584.

The court reasons that the necessity for the joinder of the husband in the execution is not affected by reason of his being a minor. The infant husband has all the marital rights and the wife is entitled to the same protection and safeguards as the wife of an adult. In *Tippett* v. *Brooks*, 28 Tex. Civ. App. 107, it was decided that a conveyance of a married woman, altho a minor, joined in by her minor husband, was valid on the ground that marriage worked an emancipation from the disability of minority. And so by inference from this case, the husband must join. This decision might be questioned, as most states hold such a conveyance voidable. *Scranton* v. *Stewart*, 52 Ind. 68; *Webb* v. *Hall*, 35 Me. 336; *Dixon* v. *Merritt*, 21 Minn. 196; *Card* v. *Patterson*, 5 Ohio St. 320; *Bool* v. *Mix*, 17 Wend. (N. Y.) 119. However, there are statutes in some of the states providing that under certain circumstances, where it is impossible to obtain the joinder of the husband, the wife may convey as a feme sole. Thus where the husband is insane, *Hadaway* v. *Smith*, 71 Md. 319. Or where the husband has abandoned or separated from the wife or is a non-resident. *Knight* v. *Coleman*, 117 Ala. 266; *Curry* v. *Simpson*, 72 Vt. 232. For further discussion of the different classes of statutes reviewing joinder or assent, see 6 MICH. LAW REV. 429.

DIVORCE—TEMPORARY ALIMONY AND COUNSEL FEES—APPEAL—DECISIONS REVIEWABLE.—P. had sued D. for a divorce. During the trial, the court granted an order allowing P. temporary alimony and counsel fees, pendente lite. From this order D. appealed. On motion to dismiss this appeal, *held*, that an order allowing temporary support, or alimony and counsel fees pending the litigation is appealable. *Messervy* v. *Messervy* (1908), — S. C. —, 60 S. E. Rep. 692.

As to whether an order for alimony, pendente lite, is appealable, see *Hecht* v. *Hecht*, 28 Ark. 92, in which case the court held that since an order of this nature is discretionary with the court, it will be interfered with, only upon the clearest proof that there has been an abuse of such discretion, and where such abuse affects the rights of one of the parties he may appeal. A similar holding is found in the case of *Stiehm* v. *Stiehm*, 69 Minn. 461, 72 N.